

EXHIBIT "B"

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

THE UNITED STATES,)	
)	
PLAINTIFF,)	
)	
VS.)	CASE NO: A04-003
)	
JOSEF BOEHM,)	
)	
DEFENDANTS.)	
)	

SENTENCING HEARING RE

JOSEF BOEHM

HELD ON

THURSDAY, MAY 5, 2005

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1 Q. And Dr. Mittelburger?

2 A. Yes.

3 Q. And have you had personal contact with Mr. Boehm?

4 A. Yes, on severely occasions, on multiple
5 occasions.

6 Q. Please explain to His Honor.

7 How much contact have you had with Mr. Boehm?

8 A. I came to Anchorage first in late July of 2004
9 and spent the greater part of three days interviewing
10 Mr. Boehm on four occasions, total of about three hours,
11 face-to-face contact, and then I returned at the end of
12 October in 2004, over two days had three additional
13 sessions with Mr. Boehm lasting about eight hours.

14 So I've spent about seventeen hours talking with
15 Mr. Boehm, and other times I've met him, on other visits
16 here.

17 Q. All right. And have you reviewed the
18 brain-imaging testing that's been done in this case?

19 A. Within the limits of my knowledge. Correct.

20 Q. But you, in turn, are aware of Dr. Cowell's
21 interpretations of those tests?

22 A. Yes, I am.

23 Q. In fact, was some of that testing done pursuant
24 to recommendations made by you?

25 A. Yes. After my first visit -- interviews of

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1 psychosis goes away all by itself.

2 So what you get into -- and this is how I said
3 earlier that, you know, given his pattern of use, the
4 amounts of use, he would be addicted and would be impaired
5 24 hours a day. A lot of this is not just from the acute
6 use, but also the toxic affects, sleep deprivation,
7 malnutrition. They're associated with this extreme level
8 of cocaine addiction.

9 Q. Now, Doctor, by way of follow-up -- well, first
10 of all, what's your understanding, including your
11 observation of the testimony of Bambi Tyree, as to
12 approximately how much cocaine Mr. Boehm was using during
13 the relevant periods as to these offenses?

14 A. She was specific that they were each using an
15 ounce or more of cocaine -- crack cocaine per day and that
16 they would use it in patterns of runs, which means
17 continuous use without sleep, for up to a week.

18 Q. Can you give us some perspective on that from
19 your experience as to how much cocaine that is?

20 A. In my experience, I've never heard of such a
21 daily dose of crack cocaine. The most that I have

22 experience with before is twelve to fifteen grams, say

23 almost a half-ounce.

24 But Mr. Boehm didn't give me this history,

25 because I think he -- he doesn't remember very well what

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1 was going on, it just being given to him, but Ms. Tyree
2 was very, very clear that it was an ounce a day or so per
3 person.

4 Q. And what -- can you give us some idea of what it
5 means to go on a run for a week?

6 A. It means you just continue to use crack cocaine.
7 And since it's so short-acting, you may be using it every
8 five to ten minutes. Because the body is so wired, so
9 excited, people are unable to sleep. They're jittery,
10 they're nervous, they're jumpy, and so they use -- keep
11 chasing that high around the clock. And according to --
12 for days at a time, but Ms. Tyree said they would use for
13 a week or more at a time.

14 I had one case that I was involved in, the person
15 was on a run for close to three months on methamphetamine,
16 so --

17 THE COURT: On methamphetamine?

18 THE WITNESS: On meth.

19 But cocaine is the same. It just doesn't last as
20 long. They're indistinguishable effects.

21 THE COURT: Physiologically?

22 THE WITNESS: Physiologically; right.

23 BY MR. WIDENER:

24 Q. Can you -- all right.

25 Well, first, what portions of the brain are

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1 first of all, to your summary on your April 20th report --
2 it's at Page 7 of your report -- and I'm going to ask you
3 back in the body of the report how that information
4 relates to your summary.

5 But you make the statement -- you have it there,
6 the summary?

7 A. Yes.

8 Q. "Given Mr. Boehm's described use of high doses of
9 crack cocaine between 2001 until 12/23/03, it would have
10 been impossible for him to be the leader of any type of
11 conspiracy. Even without any type of underlying brain
12 damage the amounts and pattern of use of crack cocaine by
13 Mr. Boehm would have caused such extreme cognitive
14 impairment as to prevent him from being the principal in
15 any type of conspiracy which required planning and
16 execution in order to accomplish a given purpose at some
17 time in the future."

18 "During this about three-year period of cocaine
19 addiction Mr. Boehm would have been engaged in a
20 continuous and repetitive pattern of seeking more cocaine,

21 using cocaine, recovering from the effects of prior use of

22 high doses of cocaine."

23 "Under these conditions he would have been

24 significantly impaired at all times. All available

25 information is most consistent with a conspiracy between

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1 Ms. Tyree, Mr. Bolling and Mr. Williams to keep Mr. Boehm
2 supplied with crack cocaine so as to get money, in other
3 words, steal from him."

4 "Available information is consistent with
5 Mr. Boehm being among the victims of this conspiracy.
6 Given the amounts of patterns of crack cocaine used by
7 Mr. Boehm from about 2001 to 12/03, he would have been
8 functioning in a survival-type mode where the only issue
9 of importance would have been to continue to use crack
10 cocaine with no consideration of possible future
11 consequences."

12 And, obviously, that is your opinion; correct?

13 A. That's correct.

14 Q. Now, going back then to Page 4 of your report, at
15 the bottom you make some observations about Mr. Boehm not
16 having control of his house, the actions of Ms. Tyree, and
17 then you make specific references to -- Page 5 -- to
18 certain statements that support your opinion.

19 Please, explain your opinion in that regard.

20 A. The first group on Page 5 is people's references
21 that Mr. Boehm was not in control of his house or what was

22 occurring around him, and these were just selected. There
23 were a lot more similar-type references, but these were
24 basically from witnesses that were at the house at
25 different times that were asked what they had observed

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